



AN ACT AUTHORIZING AN INTERSTATE HEALTH CARE COMPACT; AND DIRECTING THE GOVERNOR TO JOIN THE COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Interstate health care compact.** This state enacts into law and enters into the interstate health care compact with all states that enact the compact in the form substantially contained in [section 3].

**Section 2. Authority to join interstate health care compact.** The governor of the state of Montana is authorized and directed to enter into the interstate health care compact provided for in [sections 1 through 3] on behalf of the state with any state that has lawfully joined in the compact in the form substantially contained in [section 3].

**Section 3. Text of compact.** The interstate health care compact referred to in [sections 1 and 2] reads as follows:

#### ARTICLE I

##### FINDINGS AND DECLARATION OF POLICY

(1) The separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty.

(2) The United States constitution creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not granted to the federal government.

(3) The federal government has enacted many laws that have preempted state laws with respect to health care and placed increasing strain on state budgets, impairing other responsibilities such as education, infrastructure, and public safety.

(4) The member states seek to protect individual liberty and personal control over health care decisions and believe that the best method to achieve these ends is by vesting regulatory authority over health care in the

states.

(5) By acting in concert, the member states may express and inspire confidence in the ability of each member state to effectively govern health care.

(6) The member states recognize that the consent of congress may be more easily secured if the member states collectively seek consent through an interstate compact.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Commission" means the interstate advisory health care commission created in Article VII.

(2) "Effective date" means the date upon which this compact is effective for purposes of the operation of state and federal law in a member state and is the later of:

(a) the date upon which the compact is adopted under the laws of the member state; or

(b) the date upon which the compact receives the consent of congress pursuant to Article I, section 10, of the United States constitution, after at least two member states adopt the compact.

(3) (a) "Health care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body;

(ii) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and

(iii) an individual or group plan that provides or pays the cost of care, services, or supplies related to the health of an individual.

(b) The term does not apply to any care, services, supplies, or plans provided by the U.S. department of defense, the U.S. department of veterans affairs, or the Indian health service.

(4) "Member state" means a state that has signed this compact and adopted it under the laws of the state.

## ARTICLE III

### PLEDGE

Each member state pledges to take joint and separate action to secure the consent of congress to this

compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in this compact. Each member state further pledges to improve health care policy within its respective jurisdiction and according to the judgment and discretion of the member state.

#### ARTICLE IV

#### LEGISLATIVE POWER

The legislatures of the member states have the primary responsibility to regulate health care in their respective states.

#### ARTICLE V

#### STATE CONTROL

Each member state, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state pursuant to the compact. Federal laws, rules, regulations, and orders regarding health care remain in effect unless a member state expressly suspends them pursuant to its authority under the compact. For any federal law, rule, regulation, or order that remains in effect in a member state after [the effective date of this act], that member state is responsible for the associated funding obligations in its state.

#### ARTICLE VI

#### FUNDING

(1) Each member state has the right to federal funds provided by congress for mandatory spending pursuant to the formula provided in this Article VI to support the exercise of the member state's authority under this compact. The funding may not be conditioned on any action, regulation, policy, law, or rule of any kind by the member state.

(2) (a) A member state's share of federal funds under this compact is based on the actual federal spending on health care in the member state for fiscal year 2010 and is adjusted annually for changes in the state's population and for inflation.

(b) The adjustment must be calculated by:

(i) subtracting the average population of the member state in 2010 from the average population for the current year, dividing the difference by the state's average population for 2010, and adding 1;

(ii) dividing the total gross domestic product deflator for the current year by the total gross domestic product deflator in 2010; and

(iii) multiplying the federal spending on health care in the state for 2010 by the results calculated in subsection (2)(b)(i) and the quotient calculated in subsection (2)(b)(ii).

(c) The average population of a member state is the population as determined by the U.S. census bureau.

(d) The total gross domestic product deflator is the deflator as determined by the bureau of economic analysis of the U.S. department of commerce.

(3) Congress shall establish a preliminary funding level for each member state. The final funding level must be calculated and reconciled by the congress of the United States based upon reports provided by each member state and audited by the general accounting office.

ARTICLE VII

INTERSTATE ADVISORY HEALTH CARE COMMISSION

(1) The member states create the interstate advisory health care commission.

(2) (a) The commission shall consist of members appointed by each member state through a process to be determined by the laws of the member state. No state may appoint more than two members to the commission.

(b) A member state may withdraw its members from the commission at any time.

(c) Each commission member is entitled to one vote. The commission may not act unless a majority of the members are present.

(d) No action is binding on the commission unless approved by a majority of the total members.

(3) The commission may elect a chairman from among its members and adopt and publish bylaws and policies that are consistent with this compact. The commission shall meet at least annually and may meet more frequently if the bylaws allow.

(4) The commission shall collect information and data to assist the member states in the regulation of health care, including but not limited to assessing the performance of various state health care programs and compiling information on the prices of health care. The commission shall make the information and data available to the legislatures of the member states. Notwithstanding any other provision in the compact, no member state may disclose to the commission the health information of any individual, nor shall the commission disclose the health information of any individual.

(5) The commission may study issues related to health care regulation of concern to the member states,

including but not limited to the elimination of interstate barriers to the provision of health care. The commission may make nonbinding recommendations to the member states for consideration by the legislatures of the member states in determining appropriate health care policy in their respective states.

(6) The commission may undertake additional responsibilities and duties if those responsibilities and duties are conferred upon the commission by the legislatures of the member states in accordance with the terms of the compact.

(7) Member states shall fund the commission as provided by the member states.

#### ARTICLE VIII

#### CONGRESSIONAL CONSENT

This compact is effective upon its adoption by at least two member states and consent of congress in a form that is consistent with the purposes of this compact to secure:

(1) the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

(2) federal funding for member states that choose to invoke their authority under this compact pursuant to the mandatory formula provided for in Article VI.

#### ARTICLE IX

#### AMENDMENTS

(1) This compact may be amended by unanimous agreement among the member states without the prior consent or approval of the congress of the United States.

(2) Any amendment is effective unless, within 1 year, the congress of the United States disapproves the amendment.

(3) Any state may join the compact after the date on which the congress of the United States consents to the compact by adopting the compact into law under its state constitution.

#### ARTICLE X

#### WITHDRAWAL OR DISSOLUTION

(1) Any member state may withdraw from this compact by adopting a law authorizing withdrawal.

(2) Withdrawal may not take effect until 6 months after the governor of the withdrawing member state has given notice of the withdrawal to the other member states.

(3) A withdrawing state is liable for any obligations that it may have incurred prior to the date its withdrawal becomes effective.

(4) This compact is dissolved upon the withdrawal of all but one of the member states.

**Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 through 3].

- END -

I hereby certify that the within bill,  
HB 0526, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 526

INTRODUCED BY C. EDMUNDS, E. ARNTZEN, K. KERNS, M. MORE, C. SMITH, G. BENNETT,  
MCGILLVRAY

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